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April 18, 2000

Sent via e-mail and either fax, hand-delivery or U.S. mail

Mary L. Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: Number Pooling, D.T.E. 99-99

Dear Secretary Cottrell:

Enclosed please find for filing the Attorney General's Rebuttal Comments regarding the effect of the FCC's March 31, 2000, Report and Order on sequential number assignment, together with a Certificate of Service.

Respectfully submitted,

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KJR/kr

Enc.

cc: Kevin Penders, Hearing Officer (w/enc.)

Robert Howley, Hearing Officer (w/enc.)

D. T. E. 99-99 Service List (w/enc.)

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Proceeding by the Department of Telecommunications and)
Energy to conduct mandatory thousands-block number)
pooling trials pursuant to the authority delegated by the)
Federal Communications Commission In the Matter of)
Massachusetts Department of Telecommunications and) D. T. E. 99-99
Energy's Petition for Waiver of Section 52.19 to Implement)
Various Area Code Conservation Methods in the 508, 617,)
781, and 978 Area Codes, CC Docket No. 96-98,)
FCC 99-246, NSD File No. L-99-19 (September 15, 1999))

ATTORNEY GENERAL'S REBUTTAL COMMENTS REGARDING THE EFFECT OF THE FCC'S MARCH 31,
2000, REPORT AND ORDER

ON SEQUENTIAL NUMBER ASSIGNMENT

On March 31, 2000, the Federal Communications Commission ("FCC") released its long-awaited Report and Order⁽¹⁾ and, as part of that Order, issued guidelines for sequential number assignment. ⁽²⁾ On April 5, 2000, AT&T Communications of New England, Inc. ("AT&T") filed supplemental comments with the Department of Telecommunications and Energy ("Department") in which AT&T asserts in its supplemental comments ("AT&T Supplement") that the FCC's Order now requires the Department to grant the motion for partial reconsideration filed by AT&T on April 5, 2000 (AT&T Supplement at 1). The Attorney General submits that AT&T's interpretation of paragraphs 242 through 246, inclusive, of the FCC's Order is without merit and

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does not accurately or completely reflect the FCC's Order on sequential number assignment. The Attorney General also contends that the Department's current regulations and waiver procedures comply with the FCC's Order.

In its supplemental comments, AT&T states correctly that the FCC wants to maintain flexibility in accommodating carrier requests for customer specific numbers (AT&T Supplement at 1). However, AT&T then infers, incorrectly, that this flexibility mandate has eliminated the ability of state commissions to oversee a carrier's access to uncontaminated thousands-blocks. This is inconsistent with the March 31, 2000, Order, in which the FCC states that:

A carrier that opens a clean block prior to utilizing in its entirety a previously-opened thousands-block should be prepared to demonstrate to the state commission: (1) a genuine request from a customer detailing the specific need for telephone numbers; (2) the inability on the part of the carrier to meet the specific customer request for telephone numbers from the surplus of numbers within the carrier's currently activated thousands-block. We believe that this requirement will improve carrier efficiency in utilizing numbering resources, while maintaining carrier flexibility in meeting customer demand.

FCC Order at ¶ 245, page 111; see also FCC Order, Appendix A, page 124 - amending Part 52 of the FCC's Rules, Subpart B, Section 52.15(j)(1)-(3) (Sequential Number Assignment).

Granting AT&T's motion would eliminate the Department's existing waiver procedures and allow AT&T and all other carriers to contaminate entire thousands blocks to satisfy customer-specific number requests without demonstrating to the Department a legitimate need to open new blocks. This consequently would result in a waste of Massachusetts' rapidly vanishing numbering resources and would deprive the Department of necessary oversight authority that the FCC clearly contemplates in its revised number pooling regulations. See Section 52.15(j)(2) (a carrier must be prepared to demonstrate need for a specific number and its inability to provide that number from the carrier's current stock), and Section 52.15(j)(3) (state commissions may withhold additional numbering resources from a carrier if the state commission finds that the carrier failed to demonstrate need for the numbering resources) (FCC Order, Appendix A, page 124).

The Attorney General recognizes that carriers have a legitimate interest in being able to meet customer-specific numbering requests, but that interest must yield to the broader public interest in conserving a diminishing supply of numbers. The Department must keep a close watch on carriers who contaminate thousands blocks to satisfy customer requests. The FCC recognizes that the Department must have a mechanism to verify that the carriers have an actual need for the numbers. The Attorney General submits that the existing waiver procedure protects the public's interests, allows the Department to monitor a dwindling supply of numbers, assures compliance with numbering guidelines, and deters the abuse of numbering resources, while allowing carriers to meet legitimate customer needs in a timely manner. Moreover, using waivers for customer specific number assignments provides the flexibility required by the FCC without stranding unused numbers.

Until the Department implements the number pooling authority granted it by the FCC seven months ago, or rate center consolidation as urged by the Attorney General a year ago, the Department cannot afford to allow carriers access to number resources unchecked. The Attorney General has repeatedly urged the Department to institute number conservation measures in his effort to avoid new area codes. Now, as before, the Attorney General urges the Department to enforce its sequential number assignment procedures in their current form to conserve uncontaminated thousands blocks for future number pooling.

For all of the foregoing reasons, the Attorney General submits that the Department should deny AT&T's Motion for Partial Reconsideration and retain its current waiver procedures for sequential number assignments.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding by e-mail and either hand-delivery, U.S. mail, or fax.

Dated at Boston this 18th day of April 2000.

Karl en J. Reed

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1. In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, FCC 00-104, Report and Order and Further Notice of Proposed Rule Making (Released March 31, 2000) ("FCC Order").
2. Sequential number assignment requires a carrier to assign all available telephone numbers within an opened thousands-block before assigning telephone numbers from an uncontaminated thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a specific customer request. A carrier who opens an uncontaminated thousands-block before assigning all available telephone numbers in an opened thousands-block is required to be prepared to demonstrate to the state commission the need for specific numbers and the carrier's inability to satisfy the customer request from the carrier's available number supply. FCC Order at ¶¶ 244, 245.